

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition by the United States Department of)	NSD-L-99-24
Transportation for Assignment of an Abbreviated)	
Dialing Code (N11) to Access Intelligent)	
Transportation System (ITS) Services Nationwide)	
)	
Request by the Alliance of Information and)	NSD-L-98-80
Referral Systems, United Way of America,)	
United Way 211 (Atlanta, Georgia), United Way)	
of Connecticut, Florida Alliance of Information)	
and Referral Services, Inc., and Texas I&R)	
Network for Assignment of 211 Dialing Code)	
)	
The Use of N11 Codes and Other Abbreviated)	CC Docket No. 92-105
Dialing Arrangements)	

To: The Commission

**COMMENTS OF AT&T WIRELESS SERVICES, INC.
IN SUPPORT OF PETITION FOR RECONSIDERATION**

AT&T Wireless Services, Inc. ("AT&T") hereby submits its comments in support of Verizon Wireless ("Verizon")'s Petition for Reconsideration in the above-captioned proceeding.^{1/} AT&T agrees with Verizon that the Commission erred in imposing the new 211 and 511 N11 code obligations on wireless carriers; that it is impracticable and infeasible for wireless carriers to implement these requirements; and that for these reasons, the Commission should revise its rules to make these N11 requirements voluntary for wireless providers.

^{1/} In the Matter of Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide; Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, Georgia), United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc., and Texas I&R Network for Assignment of 211 Dialing Code; The Use of N11 Codes and Other Abbreviated Dialing Arrangements, Third Report and Order and Order of Reconsideration, 15 FCC Rcd 16753 (2000) ("Third Report").

INTRODUCTION AND SUMMARY

The Third Report assigns 211 as the code for gateway access to community information and referral services, and 511 as the code for gateway access to travel information services.^{2/} On March 12, 2001, numerous parties, including Verizon, submitted petitions for reconsideration of the Third Report. AT&T supports Verizon's Petition for Reconsideration ("Petition"), and agrees with Verizon that the Commission unlawfully imposed these obligations on wireless providers.

As Verizon demonstrates, the Commission applied the new mandatory N11 codes to both wireline and wireless carriers without the required prior notice and without any evidence in the record supporting the need for or appropriateness of imposing such requirements on CMRS providers. The failure to consider the technical and operational issues associated with the imposition of this requirement on wireless carriers violates Congress' determination that in light of the competitive CMRS marketplace, the Commission should refrain from imposing unnecessary regulations that may be appropriate for wireline carriers, and should forbear from wireless regulation unless there is a specific need for the regulation in the wireless context.^{3/} The Commission's failure to conduct such an analysis violates the fundamental principles of reasoned decisionmaking.^{4/}

The Third Report establishes unworkable and poorly defined requirements for wireless carriers' implementation of 211 and 511 service. Wireless carriers should not be required to decide among conflicting requests to provide 211 and 511 services. Requiring providers to

^{2/} Third Report ¶ 2.

^{3/} See Petition at 5-9.

^{4/} See id. AT&T agrees with Verizon that these deficiencies render the new N11 codes illegal as applied to CMRS providers. AT&T does not repeat those arguments here, however, but instead focuses on demonstrating the difficult technical, financial and administrative burdens that the new rules place on wireless providers.

select one entity from multiple requests, or to route calls to different numbers or requesting entities throughout the state, would place a tremendous financial, administrative and technical burden on carriers, and hinder the Commission's goal of enabling access that "transcends municipal boundaries and is easily retrievable in a single call."^{5/}

The Commission's unexplained refusal to allow non-government entities, in addition to a state-designated government agency, to provide 511 information hinders carriers' ability to compete for customers. Many carriers, including AT&T, already provide their customers with transportation information, and this feature is an important part of their customer service package. Allowing each carrier to determine whether it should provide its own transportation information, or instead direct callers to the state-designated number, would best allow providers to respond to the needs and demands of their customers.

ARGUMENT

I. THE COMMISSION FAILED TO CLARIFY HOW WIRELESS CARRIERS MAY SATISFY THEIR 211 AND 511 OBLIGATIONS

The Third Report fails to address several significant implementation issues regarding how carriers must direct calls received to 211 and 511 codes. For 211 calls, the Third Report states only that providers receiving requests to use 211 must ensure that local entities using those codes relinquish their use, and that providers should "take any steps necessary"^{6/} to complete calls from their subscribers to the requesting entity in their service area. It fails to address the inevitable questions that will arise if multiple entities in the same service area submit requests to receive 211 calls. These questions include which entity should be the designated entity, how that decision should be made, or whether the carrier is obligated to direct calls to multiple entities.^{7/}

^{5/} Third Report ¶ 15.

^{6/} Id. ¶ 21.

^{7/} See Petition at 19-20.

With respect to 511 calls, the Third Report states only that the Commission “leave[s] with federal, state, and local government transportation agencies the discretion to determine the deployment schedule and the type of transportation information that will be provided using 511. . . .”^{8/}

In essence, the Third Report puts carriers in the untenable position of acting as the arbiter among requests from multiple organizations that vie to receive calls placed to 211 or 511. Not only is there the potential for multiple requests in a locality, but the identity of the requesting entities would likely vary from locality to locality. Carriers lack the expertise and the familiarity with local organizations to choose from among various “community information and referral services” or government entities in a given locality. To route 211 and 511 calls to more than one number per state, a carrier would have to incur the considerable expense of acquiring and implementing new hardware and software and associated systems. Even then, the carrier would probably not be able to satisfy all of these conflicting requests, and consumers would have no idea of which entity they were reaching when they dialed 211 or 511.

A. The Third Report Fails to Further the Commission’s Stated Goals of Making Valuable Information Available In a Single Call.

Although the Commission states that its goal is to ensure that the new N11 codes are used efficiently and provide a valuable and easy-to-use service to consumers, the Third Report’s requirements would have precisely the opposite effect.^{9/} In the case of 211 calls, the goal that community service organizations “work cooperatively to ensure the greatest possible use of this scarce resource”^{10/} cannot possibly be met if carriers are required to direct calls to any requesting entity, regardless of whether that entity has the knowledge or resources available to provide

^{8/} Third Report ¶ 15.

^{9/} See Petition at 19-20.

^{10/} Third Report ¶ 21.

proper referral services to other organizations. Carriers cannot be expected to verify that an entity asking to receive 211 calls is qualified and able to handle such calls or to screen against unscrupulous individuals that establish themselves as the “clearinghouse” for calls and then charge organizations a fee for referrals. Substantial consumer confusion is inevitable, because each carrier will end up directing 211 calls to different entities, depending upon which entities requested routing of such calls and when. With no idea of which entity they will reach when they dial 211 or whether the entity they do reach is legitimate, consumers will be less likely to avail themselves of this service.

Similarly, the Commission’s requirement that providers direct 511 calls to any requesting government entity contradicts the Commission’s stated goals of ensuring that “the transportation information provided using 511 is appropriate to the national scope of [the 511] designation and the scarcity of the N11 public resource” and that “callers . . . have access to information that transcends municipal boundaries and . . . is easily retrievable in a single call.”^{11/} If carriers were required to direct calls to multiple local government entities, each entity would most likely only provide information about its immediate vicinity, and drivers would have no way of obtaining a complete picture of transportation conditions for a larger area. Further, drivers might be interested in travel information for an area completely different from that where they are located when they make the 511 call.

The Commission also failed to clarify how and by whom 211 and 511 calls would be paid for. Customers will not expect to pay any toll charges for 211 and 511 calls. Thus, at a minimum, these calls must be routed solely to a toll-free (e.g., an 800 or 888) number, so that callers do not unexpectedly receive toll charges on their bills in connection with such calls. Wireless carriers should be able to charge airtime for these calls, just as they are permitted to do

^{11/} Id. ¶ 15.

for 311 calls.^{12/} Further, any costs incurred by states to set up 211 or 511 call centers should be the responsibility of the state, not the carriers.

B. The Regulatory Scheme Established by the Third Report Would Result in Extensive Technical and Financial Burdens for Wireless Carriers.

In addition to the administrative burdens described above, AT&T agrees with Verizon that requiring carriers to route 211 and 511 calls to multiple recipients could not be accomplished without substantial reengineering of carrier networks and the development of complex new databases.^{13/} In order to route a 3-digit call, carriers must translate that number into a 7 or 10 digit telephone number that the system can recognize and route. The complication of this translation process is significantly increased, however, when carriers must route to a number depending on the caller's precise location. Wireless carrier systems generally do not conform to political boundaries such as a municipality or county. For example, it is relatively easy to route by switch; however, wireless carriers' switches often serve large geographic areas -- even several states.

Developing such a routing procedure in smaller geographic areas, such as a municipality or county, is a significant burden and expense on carriers, and increases the potential for errors. AT&T's systems would have to be significantly altered in order to allow routing on a smaller level, such as on a per-cell site or group of cell sites basis.^{14/} Reconfiguration to allow for this

^{12/} See In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements, 12 FCC Rcd 5572 ¶ 43 (1997).

^{13/} See Petition at 13-16.

^{14/} Basic 911 calls are routed on predetermined cell site groupings. For example, a group of cell sites are all given a value of "X." All 911 calls from a cell site with a value of "X" route to (XXX) XXX-XXXX. Routing was set up this way originally in an effort to allow customers speedy access to emergency services.

With the implementation of Phase I E911, AT&T is moving away even from cell site grouping routing to the use of an SCP (signal control point) instead. See 47 C.F.R. § 20.18(d). Many AT&T systems no longer support MSC (mobile switching center) translation based cell

type of routing would carry significant up-front costs, as well as continuous ongoing costs because AT&T adds, removes and realigns new cell sites daily. Because AT&T's systems are not designed for this type of activity, the changes would result in an increased error rate.^{15/} Further, wireless signals do not stop at political borders. Requiring calls to 211 or 511 to be routed based on a small geographic area such as a municipality or county will increase the number of misdirected calls.

II. THE COMMISSION FAILED TO ARTICULATE A BASIS FOR REJECTING REQUESTS TO ALLOW NON-GOVERNMENT ENTITIES TO PROVIDE 511 SERVICES, WHICH WOULD SERVE THE PUBLIC INTEREST

A. The Commission's Failure to Articulate A Basis for Rejecting Requests to Allow Non-Government Entities To Provide 511 Services Renders Its Decision Arbitrary and Capricious.

In the proceeding establishing the 511 transportation code, Sprint argued that the 511 code should not be restricted to government-provided information, stating that:

The government's interest is promoted by facilitating public access to traveler information, regardless of the source of the information. This government interest is not served by limiting N11 access to government sources of information only; in fact, such a restriction would stifle consumer choice, retard the rapid development of effective ATIS systems, and in the process, undermine the Congressional goal of promoting widespread implementation of such systems.^{16/}

Sprint PCS argued that carriers should be able to determine the source of traveler information that their customers will receive upon dialing 511, because "[w]ith this flexibility, travel

site specific (or grouped) routing. Implementing such a requirement for 211 and 511 would be a step backward.

^{15/} Although AT&T potentially could implement an SCP-based solution to avoid some of these difficulties, this would require building a SCP, because the existing 911 SCPs would not be available for these services. The required system modifications would delay provision of 211 and 511 services, and would be a significant cost. Further, additional costs would be incurred due to the additional headcount, maintenance, and network connections that also would be required.

^{16/} Comments of Sprint PCS at 2-3, CC Docket 92-105 (July 20, 1999) (emphasis in original).

information would become a new basis for competition and consumer choice. In deciding whether to use one carrier as opposed to another, a consumer may very well consider the quality, accuracy, and usefulness of the traveler information that a particular carrier provides.”^{17/} Further, Sprint noted, this competition among carriers “creates competition among assemblers of traveling information, as each assembler is incented to introduce new and more useful services and features so as to obtain additional business and viability.”^{18/}

The Third Report rejects this argument in a one-sentence footnote, without any analysis or explanation.^{19/} Such a blanket rejection does not satisfy the basic fundamentals of administrative law, which requires that “an agency must cogently explain why it has exercised its discretion in a given manner” and that agency action be “based on a consideration of the relevant factors,” and rest on reasoned decisionmaking in which “the agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.”^{20/} Without sufficient justification to establish “a rational connection between the facts found and the choices made,” this aspect of the Third Report cannot stand.^{21/}

^{17/} Id. at 4.

^{18/} Id. at 5.

^{19/} Third Report n.42 (“we reject the contention of Sprint PCS that the N11 code assigned for use with traveler information services should be made available to entities other than governmental entities.”).

^{20/} United States Telecom Ass’n v. FCC, 227 F.3d 450, 460-61 (D.C. Cir. 2000), quoting A.G. Pharma, Inc. v. Shalala, 62 F.3d 1484, 1491 (D.C. Cir. 1995) (quoting Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 48 (1983); Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 416 (1971); Motor Vehicle Mfrs., 463 U.S. at 43.

^{21/} United States Telecom Ass’n, 227 F.3d at 462. More generally, Verizon presents a compelling argument that the code assignments were adopted without a notice of proposed rulemaking, and made effective immediately, in violation of the Administrative Procedure Act. See Petition at 20-25.

B. Allowing Non-Government Entities to Provide 511 Services Furthers The Public Interest In Getting Customers The Services They Need and Demand.

Allowing non-government entities to provide traveler information to their customers, as an alternative to any government-provided service, would aid consumers by giving them a choice of information sources. In fact, AT&T offers travel information services now, as an enhanced customer service feature of its PocketNet service. Through PocketNet, AT&T provides customers access over the Internet to travel information through various content providers, such as MAPQUEST, a service that provides mapping, driving directions, and real time traffic information to customers, and Traffic Station, another content provider that provides customers with information on local traffic as well as customized route-specific traffic reports and alerts. PocketNet customers also may access information on the nearest hotel, business, restaurant, or cash machine, may book airline tickets, plan travel, or obtain other valuable information.

Wireless carriers should be able to provide travel information to subscribers using whatever mechanism they choose, including a convenient, easy to remember number. In the competitive wireless marketplace, each carrier has a strong incentive to develop new and innovative services that distinguish it from its competitors and attract and keep customers. For a mobile subscriber base in particular, the availability of current and accurate traffic and travel information is certainly one such application. Depriving wireless carriers of the ability to make these services available through abbreviated dialing dampens carriers' incentives to develop such services, ultimately depriving consumers of access to the range of content and formats that competition would otherwise make possible.^{22/} The Commission should reconsider its unexplained rejection of Sprint's proposal, and allow carriers to design 511 services that best suit the needs of their subscribers.

^{22/} See id. at 17-19.

CONCLUSION

For the foregoing reasons, the Commission should grant the petitions for reconsideration of Verizon Wireless and others, should exempt wireless carriers from the new mandatory N11 requirements, and should allow private entities to provide travel information through the 511 code.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Margo Adams, hereby certify that on this 12th day of April 2001, I caused copies of the foregoing "Comments of AT&T Wireless Services, Inc." to be sent to the following by either first class mail, postage prepaid, or by hand delivery (*).

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